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**TESTIMONY OF ROBYN KAPLAN-CHO,
REGARDING RAISED BILL NO. 154
AAC STATE EMPLOYEES AND VIOLENCE AND ABUSIVE
CONDUCT IN THE WORKPLACE
BEFORE THE COMMITTEE ON LABOR AND
PUBLIC EMPLOYEES**

MARCH 8, 2012

Good afternoon Senator Prague, Representative Zalaski and members of the Labor and Public Employees Committee.

My name is Robyn Kaplan-Cho and I am employed by the Connecticut Education Association where my responsibilities include advising and educating teachers about their rights and responsibilities.

CEA requests that Raised Bill 154 be amended to include provisions aimed at preventing workplace violence in the public school setting. Last year, the general Assembly passed Public Act 11-175 "An Act Concerning Workplace Violence Prevention and Response in Health Care Settings." CEA commends the legislature for taking a proactive step toward better protecting health care employees. We are now asking that similar protections be afforded to public school personnel who also face workplace safety issues on a regular basis.

I think we can all agree that a safe school environment and respect for all school staff is an absolute prerequisite to learning. We also can all agree that school staff and students should be entitled to come to school every day feeling safe. But the disturbing reality is that teachers and their fellow school employees are being assaulted at work on a regular basis. Eye-opening data collected by the State Department of Education reveals that during the past four (4) years, there have been over 6,400 reported incidents of physical violence against school employees. That amounts to more than 40 assaults per week. And these are the reported cases only; the actual number of assaults is much higher. We know for certain that many teachers are too fearful of retribution to ever file a report of an assault with their administrator, much less with the local police.

Our proposal (attached) establishes workplace safety committees and requires school districts to undertake risk assessments and develop and implement a workplace violence and response plan, just as provided for in PA 11-175.

Second, our proposal will increase the penalty for any person who assaults a school employee. In this unfortunate era of workplace violence stories being reported on a regular basis, passage of this bill will send a message that school staff must be respected and their physical safety ensured.

Moreover, Connecticut has a longstanding policy of recognizing that certain groups of individuals may be more prone to being assaulted at work and thus merit special protection under the law. Public school teachers should be afforded the same protection as the other classes of individuals cited under C.G.S. Section 53a-167c such as:

"a reasonably identifiable peace officer, special policeman appointed under section 29-18b, Department of Motor Vehicles inspector appointed under section 14-8 and certified pursuant to section 7-294d, firefighter or employee of an emergency medical service organization, as defined in section 53a-3, emergency room physician or nurse, employee of the Department of Correction, member or employee of the Board of Pardons and Paroles, probation officer, employee of the Judicial Branch assigned to provide pretrial secure detention and programming services to juveniles accused of the commission of a delinquent act, employee of the Department of Children and Families assigned to provide direct services to children and youths in the care or custody of the department, employee of a municipal police department assigned to provide security at the police department's lockup and holding facility or active individual member of a volunteer canine search and rescue team, as defined in section 5-249, from performing his or her duties, and while such peace officer, special policeman, motor vehicle inspector, firefighter, employee, physician, nurse, member, probation officer or active individual member is acting in the performance of his or her duties."

Furthermore, adoption of our proposal will place Connecticut with the majority of states that see fit to protect their school employees from workplace violence. Our research has revealed that 39 states currently have laws that provide an enhanced penalty for an assault on a school employee.

Please allow the judicial system to respond to the seriousness of an assault on a school employee by providing the police and courts with options that would be appropriate given the seriousness of the conduct.

Third, our proposal provides a much needed means of enforcement of an existing law – Connecticut General Statutes Section 10-233g(a) - that requires a school principal who receives a written report from an assaulted school employee to file that report with the local police authority. The intent of this law (passed in 1979) was to create a systematic method of reporting incidents of violence occurring in the public schools. The transcript of the debate over the passage of this law reveals that even over 30 years ago, violence against

school staff members was a prevalent problem that needed to be better documented. The transcript states:

"Rep. Cibes: (39th)

One of the problems with violence in the schools is that we simply do not know the extent of the problem. Except for occasional stories in the newspaper, there is no systematic methods of reporting the incidents of violence in the schools ... It is hoped that this bill would end [a] what some people presume to be a cover-up of incidents of violence in the schools. Certainly, school boards often have an incentive being concerned with their public image, to hush up the incidents. Principals may well be as concerned with their jobs, discourage reporting of incidents of violence. This bill would provide for such a system..."

"Rep. Ahearn: (55th)

And you would probably ask the question, why should you force the principal to make a report? Isn't he doing it now? And my answer is, in many cases he is not doing it now. And we are talking about an extremely serious situation ... And I want to tell you that it doesn't just occur in Hartford or New Haven or New Britain, but it occurs in Fairfield County and it occurs in Avon, Connecticut and it occurs in Stafford Springs. We have a national disease called permissiveness, a lack of respect for authority ... All we're asking is the principal, who's supposed to be responsible for the school, report a crime within his school to the police ... The intent of that is to not allow a crime to go unreported to the police ... I don't think they can hide or cover up as well if they have to, by law, report it to the police. That's the intent. It's the foremost persuasion..."

As stated above, we know first-hand that many teachers do not ever report an assault to the administration. Sometimes, it is because they are ill-informed of their right to do so. In those cases, it is our job to better ensure that teachers are aware of their rights and protections. But unfortunately, many of our members still are genuinely fearful of formally reporting an incident when they are physically assaulted. They may fear retribution from the administration or perhaps from the student's family.

However, in cases where teachers do take the bold step of filing a report with the principal pursuant to C.G.S. Section 10-233g(a), we are encountering principals who are not following this requirement, in flagrant violation of the intent of this law as described above. Yet, it remains in the entire school community's best interest for the administration and local police, consistent with the original intent of the law, to be made aware of all incidents of a physical assault against staff members. It allows the school to track repeated violent student behaviors and develop better behavior plans to allow the student to function without aggression in the school building. It also allows the local police to be made aware of instances of violence in the schools.

But, as the law is currently written, we are left without any remedy when a principal has not fulfilled his/her statutory reporting requirement – there is simply nothing we can do.

Our proposal will put some teeth into this law by imposing a fine and educational training for those principals who do not abide by the law.

Any act of violence in schools must be acknowledged and taken seriously. Our proposal sends the message that public school teachers are worthy of the same protection under our state's criminal laws as many other groups of already protected employees. It also ensures a better flow of information from the school staff to the administration and ultimately to the local police, consistent with the intent of this law. We urge your support.

Thank you.

General Assembly

February Session, 2012

AN ACT CONCERNING WORKPLACE VIOLENCE PREVENTION AND PROMOTING PUBLIC SCHOOL SAFETY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2012*) (a) On or before January 1, 2013 each local
2 and regional board of education shall establish and convene an ongoing workplace
3 safety committee to address issues related to the health and safety of school
4 personnel. The composition of such workplace safety committee shall include school
5 administrators who are members of the administrators unit as defined in section 10-
6 153b(a)(1) of the general statutes and selected by the administrators exclusive
7 bargaining agent, teachers who are members of the teachers unit as defined in section
8 10-153b(a)(2) of the general statutes and selected by the teachers exclusive bargaining
9 agent, and any other employees group deemed appropriate by such board of
10 education in consultation with any such employees' exclusive bargaining agent, with
11 the representation of any such employment group or bargaining unit proportionate
12 to the share of employees in such district. The workplace safety committee shall elect
13 a chairperson from among its membership and meet not less than quarterly.

14 (c) On or before October 31, 2013, and annually thereafter, each school district shall
15 undertake a risk assessment of the factors that put any school personnel at risk for
16 being a victim of workplace violence.

17 (d) On or before April 1, 2013, each local and regional board of education, in
18 collaboration with the workplace safety committee, shall develop and implement a
19 written workplace violence prevention and response plan based on the findings of
20 the initial annual risk assessment, and annually thereafter shall revise and amend
21 such plan based on any new findings identified in subsequent annual risk
22 assessments. A local or regional board of education may utilize an existing
23 committee to assist in the preparation of such plans, provided that the composition
24 of such existing committee is substantially similar to the workplace safety committee

25 established in this act.

26 (e) Notwithstanding the provisions of subsection (d) of this section, a local or
27 regional board of education may satisfy the requirements for the establishment of a
28 written workplace violence prevention and response plan by utilizing existing
29 policies, plans or procedures, provided annual risk assessments have been conducted
30 and the local or regional board of education, in consultation with the workplace
31 safety committee, determines that such board's existing policies, plans or procedures
32 are sufficient.

33 (f) A local or regional board of education shall, to the extent practicable, adjust class
34 assignments so that no teacher who requests an adjustment to his or her student
35 assignment is required to teach a student who such local or regional board of
36 education has recorded to have intentionally physically abused or threatened such
37 teacher. When adjusting teacher assignments, a school district shall give due
38 consideration to the obligation to meet the needs of all students including students
39 certified as requiring special education services pursuant to section 10-76a of the
40 general statutes. In situations where a local or regional board of education has
41 determined that an adjustment to a teacher's classroom assignment is not practicable,
42 any teacher who has been physically abused or threatened by a student may request
43 of the school district that additional support staff be present when teaching such
44 student, and such request shall not be denied without good cause.

45 (g) For the purposes of this section, no child certified to be in need of special
46 education services pursuant to section 10-76a of the general statutes shall have
47 committed an act of intentional physical abuse or threatening of a teacher if such act
48 or behavior is a direct manifestation of such student's disability or other condition
49 requiring special education services.

50 Sec. 2. (NEW) Each local and regional board of education shall maintain records
51 detailing incidents of workplace violence and include in such records the specific
52 area or department of the employer's premises where the incident occurred. Each
53 local and regional board of education, upon the request of the State Department of
54 Education, shall report to the department the number of workplace violence
55 incidents occurring in the school district and the specific school and area where such
56 incidents occurred. Records maintained under this section shall not include the

names or addresses of any student nor educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act, 20 USC 1232g.

Sec. 3. Section 10-233g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a) Where there is a physical assault made by a student upon a teacher or other school employee on school property or in performance of school duties, [and] such teacher or employee [files] may file a signed written report with the school principal based upon such assault [,] not later than two business days after the assault. Such report shall include the date, time and place of such assault, the name of the student who committed such assault, the nature and circumstances of such assault, and the names of any witnesses to such assault. Upon receipt of such report, the school building principal shall report such [physical] assault to the local police authority. Not later than three business days after the submission of such report, the teacher or other school employee shall provide a copy of such report to the local police authority and may file a complaint with such local police authority.

(b) No school administrator shall interfere with the right of a teacher or other employee of a board of education to file a complaint with the local police authority in cases of threats of physical violence and in cases of physical assaults by a student against such teacher or employee.

(c) The Commissioner of Education shall impose a civil penalty in the amount of two hundred fifty dollars on any principal required to report under the provisions of subsection (a) of this section who fails to make such report to the local police authority and shall require such principal to participate in an educational and training program pursuant to subsection (d) of this section.

(d) The Commissioner of Education shall require any principal required to report under the provisions of subsection (a) of this section who fails to make such report to the local police authority to participate in an educational and training program established by the commissioner. The program may be provided by one or more private organizations approved by the commissioner, provided the entire costs of the program shall be paid from fees charged to the participants, the amount of which shall be subject to the approval of the commissioner.

88 Sec. 4. Section 53a-167c of the general statutes is repealed and the following is
89 substituted in lieu thereof (effective July 1, 2012):

90 (a) A person is guilty of assault of public safety, emergency medical, ~~or~~ public
91 transit, or public school personnel when, with intent to prevent a reasonably
92 identifiable peace officer, special policeman appointed under section 29-18b, motor
93 vehicle inspector designated under section 14-8 and certified pursuant to section 7-
94 294d, firefighter or employee of an emergency medical service organization, as
95 defined in section 53a-3, emergency room physician or nurse, employee of the
96 Department of Correction, member or employee of the Board of Pardons and Paroles,
97 probation officer, employee of the Judicial Branch assigned to provide pretrial secure
98 detention and programming services to juveniles accused of the commission of a
99 delinquent act, employee of the Department of Children and Families assigned to
100 provide direct services to children and youths in the care or custody of the
101 department, employee of a municipal police department assigned to provide security
102 at the police department's lockup and holding facility, active individual member of a
103 volunteer canine search and rescue team, as defined in section 5-249, public school
104 teacher certified pursuant to 10-145, or public transit employee from performing his
105 or her duties, and while such peace officer, special policeman, motor vehicle
106 inspector, firefighter, employee, physician, nurse, member, probation officer or active
107 individual member is acting in the performance of his or her duties, (1) such person
108 causes physical injury to such peace officer, special policeman, motor vehicle
109 inspector, firefighter, employee, physician, nurse, member, teacher, probation officer
110 or active individual member, or (2) such person throws or hurls, or causes to be
111 thrown or hurled, any rock, bottle, can or other article, object or missile of any kind
112 capable of causing physical harm, damage or injury, at such peace officer, special
113 policeman, motor vehicle inspector, firefighter, employee, physician, nurse, member,
114 teacher, probation officer or active individual member, or (3) such person uses or
115 causes to be used any mace, tear gas or any like or similar deleterious agent against
116 such peace officer, special policeman, motor vehicle inspector, firefighter, employee,
117 physician, nurse, member, teacher, probation officer or active individual member, or
118 (4) such person throws or hurls, or causes to be thrown or hurled, any paint, dye or
119 other like or similar staining, discoloring or coloring agent or any type of offensive or
120 noxious liquid, agent or substance at such peace officer, special policeman, motor

vehicle inspector, firefighter, employee, physician, nurse, member, teacher, probation officer or active individual member, or (5) such person throws or hurls, or causes to be thrown or hurled, any bodily fluid including, but not limited to, urine, feces, blood or saliva at such peace officer, special policeman, motor vehicle inspector, firefighter, employee, physician, nurse, member, probation officer or active individual member. For the purposes of this section, "public transit employee" means a person employed by the state, a political subdivision of the state, a transit district formed under chapter 103a or a person with whom the Commissioner of Transportation has contracted in accordance with section 13b-34 to provide transportation services who operates a vehicle or vessel providing public rail service, ferry service or fixed route bus service or performs duties directly related to the operation of such vehicle or vessel.

(b) Assault of public safety, emergency medical, or public transit, or public school personnel is a class C felony. If any person who is confined in an institution or facility of the Department of Correction is sentenced to a term of imprisonment for assault of an employee of the Department of Correction under this section, such term shall run consecutively to the term for which the person was serving at the time of the assault.

Statement of Purpose:

To make it a criminal offense to physically assault a certified school teacher

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